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HIGH COURT OF CHHATTISGARH AT BILASPUR

M.A.(C) No. 372/2007

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

APPELLANT CLAIMANT		Yogesh Kumar, S/o Tekeshwar Sahu, Aged about 20 yrs., R/o Mudpar, P.O. Sandi Raipur, Distt. Raipur (CG), Present address Urala, P.S. Urala Raipur, Distt. Raipur (CG)
		Versus
RESPONDENTS NON-APPLICANTS	1.	Mohammad Naseem Khan, S/o Mohammad Ishmile, R/o Trimurti Nagar Block, Janta Type-A-7, P.S. Ganj, Distt. Raipur (CG)
	2.	Sushil Kumar, S/o Ghanshyam Singh Banchhor, R/o Ranitarai, P.S. Ranitarai Distt. Durg (CG)
	3.	The Oriental Insurance Co. Ltd., Through-Divisional Manager, Jail Road, Raipur, Distt. Raipur (CG)

Present:-
Shri P.M. Shrivas, counsel for the appellant.

ORAL ORDER

(Passed On 30th March, 2007)

Heard on I.A. No. 1/2007 for condonation of delay.

2. An appeal under Section 173 of the Motor Vehicle Act, 1994 has been filed against the award passed by the 11th Additional Motor Accident Claims Tribunal (F.T.C) Raipur vide judgment dated 21/07/2006. In a case of permanent disability suffered by the appellant due to a motor vehicle accident which occurred on 29.4.2003, compensation of Rs.32,000/- was awarded by the learned M.A.C.T., Raipur. The appellant was represented by counsel and applied for a certified copy of the award on 26.8.2006 and obtained copy on 21.9.2006. However, the appeal was preferred on 19.2.2007. Thus, the appeal is filed after a delay of 96 days and is barred by limitation.

3. The only ground mentioned in the application for condonation of delay is that the appellants were under an impression that the appeal could be filed at any time. It was also mentioned that the appellants did not have sufficient funds. Learned counsel for the appellant sought permission to withdraw the application for condonation of delay praying for a liberty to file application on more convincing grounds. However, such liberty cannot be granted to conceive some more convincing grounds. Prayer is rejected.

4. The contention that the appellant believed that the appeal could be filed at any time is no ground for condoning the delay. The appellant was represented by counsel before the M.A.C.T. Copy of the impugned award dated 21.07.2006 was applied for on 26.08.2006 and was received on 21.9.2006. However, thereafter the appellant went into a complete slumber and the appeal was filed as late as on 19.02.2007. The affidavit filed by the appellant is also not in a proper speaking format. It is not mentioned as to the contents of which para of the affidavit is based on personal knowledge of the deponent and which para on information received. In my considered opinion, no satisfactory cause has been assigned for condonation of delay in filing this appeal. Accordingly, I.A. No. 1/2007 for condonation of delay is dismissed. Consequently, M.A.C. No. 372/2007 is also dismissed as barred by limitation.

Sd/-
Dilip Raosaheb Deshmukh
Judge

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